



California Regional Water Quality Control Board Santa Ana Region



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TO: Craig J. Wilson, Chief
Monitoring and TMDL Listing Unit
Division of Water Quality
STATE WATER RESOURCES CONTROL BOARD

{ via e-mail }

FROM: Hope Smythe, Chief
Inland Waters Planning Section
SANTA ANA REGIONAL WATER QUALITY CONTROL BOARD

DATE: August 28, 2002

SUBJECT: RESPONSE TO COMMENTS ON THE STATE WATER RESOURCES CONTROL BOARD'S PROPOSED SECTION 303(d) LIST

Regional Board staff has reviewed the State Board's draft Response to Public Comments document. The following are our suggested responses to public comments for which State Board staff have requested our assistance:

Comment 8.10.6 – Newport Beach shoreline

Comment: "This segment of ocean shoreline does not have any significant record of impairment from total coliform or fecal coliform that warrants the listing at this time."

Region 8 staff response:

Narrative water quality information for beaches was reviewed because there were many cases for which the appropriate number of samples to determine compliance with the Ocean Plan standard (5 samples per 30 day period) were not collected. Beach postings for bacterial contamination are based on bacterial data collected pursuant to the California Health and Safety Code (AB411). Data reviewed for Newport Beach did indicate several postings occurred during the assessment period.

It should be noted that, Board staff is currently reviewing bacteria data from all beaches in the region to determine if the data supports the proposed 303(d) listing recommendation, based on the recent recommendations of the 303(d) List Beach Water Quality Workgroup. This may or may not result in changes to this listing.

Comment 8.11.1 – Lake Forest

Comment: "We currently monitor the lake on a weekly basis for temperature, clarity and oxygen. As requested in the Notice of Extended Public Solicitation for Water Quality Data and Information, a copy of the test results is enclosed with this request"

Done?
X=400

202.6
X

X

X **Region 8 staff response:** Board staff has evaluated the data submitted for Lake Forest and have found that the data submitted indicates that Basin Plan objectives are currently being met; therefore, Board staff does not recommend including the Lake on the 303(d) List.

Comment 8.13.2 and 8.14.4 - Santa Ana Delhi Channel

X **Comment:** “The Basin Plan has no established Beneficial uses for the Santa Ana Delhi Channel although the lower section (approximately a half mile) would constitute a tidal prism of a flood control channel discharging to Bay waters. In fact, the proposed triennial work plan of the Regional Board recommends adding appropriate beneficial uses for Santa Ana Delhi Channel, recognizing that this has not been done. Santa Ana Delhi Channel above the tidal prism should not be considered as water quality limited for REC 1 and REC 2 since these beneficial uses are currently being proposed by the Regional Board.”

Comment: “ The Basin Plan has no established beneficial uses for the Santa Ana Delhi Channel.”

O **Region 8 staff response:** Please see our region’s e-mailed response to State Board staff on June 27, 2002. Our response was to issues raised by Assemblyman Lou Correa regarding the Santa Ana Delhi Channel proposed listing.

Comment 8.17.7 and 8.17.9 – Proposed de-listing

X **Comment:** “...the stated reason for de-listing these waters is because TMDL has been incorporated into Basin Plan. Adoption of a TMDL does not mean the water segment is no longer impaired and is therefore not sufficient grounds for de-listing. Certain de-listings have been prematurely proposed, as those waters remain impaired. Empirical assessments must be performed before any legal status (listing or de-listing) is established. There is no basis in the Clean Water Act for de-listing a water body simply because a TMDL has been completed.”

Region 8 staff response:

X 40 CFR 130.7 requires the states to “identify water quality limited segments still requiring TMDLs for which appropriate control actions are not in place”. While the regulations do not clearly indicate waterbodies can be delisted if a TMDL has been established, Board staff believes that the regulations do indicate that the 303(d) list should consist of waterbodies still needing TMDLs. Furthermore, Board staff believes that, with the establishment of the TMDLs in the Basin Plan, the appropriate enforceable tools that can and will be used by the Regional Board to ensure that the waste load and load allocations are met, are in place to address the impairment. Based on this, Regional Board staff sees no reason to continue to include waterbodies for which TMDLs have been established on the 303(d) list and that delisting of these waterbodies is appropriate.

Comments 8.17.11; 8.17.12; 8.30001.1; 8.30002.1; 8.30008.3; and 8.30008.4 – Request for listing the Santa Ana River and Newport Bay as impaired due to trash.

X **Comment:** Defend the Bay and the Natural Resources Defense Council request to list Reach 1 of the Santa Ana River and Newport Bay as impaired due to trash.

Region 8 staff response: The North/Central Orange County Areawide Urban Stormwater Runoff Permit, Order No. R8-2002-0010 issued by the Regional Board to Orange County and its incorporated cities has enforceable provisions in place to address litter, debris and trash.

Section VII paragraphs 3, 4, and 5 of the Areawide Urban Stormwater permit require the following:

- X
3. The permittees shall continue to implement appropriate control measures to reduce and/or to eliminate the discharge of trash and debris to waters of the U.S. These control measures shall be reported in the annual report.
 4. By July 1, 2003, the permittees shall review their litter/trash control ordinances to determine the need for any revision. The permittees are encouraged to characterize trash, determine its main source(s), develop, and implement appropriate BMPs to control trash in urban runoff. The findings of this review shall be included in the annual report for 2002-2003.
 5. By July 1, 2003, the permittees shall determine the need for any additional debris control measures. The findings shall be included in the annual report for 2002-2003.

40 CFR 130.7 requires listing of waterbodies on the 303(d) list of impaired waters when pollution control requirements are not stringent enough to meet standards. Board staff believe that these provisions in the North/Central Orange County MS4 permit are a stringent enforceable mechanisms to address trash in all of North/Central Orange waterbodies. Adding these waterbodies on the 303(d) list as impaired for trash would result in the same or very similar provisions to address trash that are in the current Areawide stormwater permit.

Comment 8.13.2 – *Caulerpa taxifolia* listing

X
210-1
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Comment: National Marine Fisheries Service requests that Huntington Harbor be included on the 303(d) as impaired due to *Caulerpa taxifolia*.

Region 8 staff response: Regional Board staff agrees that certain portions of Huntington Harbor are impacted by the nuisance algae *Caulerpa taxifolia*. However, Board staff believes that including Huntington Harbor on the 303(d) List and developing a TMDL for *Caulerpa taxifolia* infestation is not the appropriate mechanism to address the impacts on Huntington Harbor. Instead, there are number of program and efforts currently underway to address the problem. For example, Board staff is coordinating efforts to define the spatial extent of the infestation, working other agencies and interested parties to confine the infestation and thereby prevent its spread to other parts of the Harbor, examining available technologies for *Caulerpa* removal potential and educating the public as to its source and impact to the Harbor. We believe that these measures are sufficient to address *Caulerpa*.

Should you have any additional questions or need further assistance, please feel free to contact me at (909)782-4493, or you may contact Pavlova Vitale at (909)782-4920,

R8

Water Body	Seal Beach projection of 1 st Street
Stressor/Media/Beneficial Use	Enterococcus/water/rec 1
Data quality assessment. Extent to which data quality requirements met.	QA used by Orange County Health Care Agency
Linkage between measurement endpoint and beneficial use or standard	Exceedances of single sample AB 411 standards may result in beach postings by Orange County Health Care Agency and therefore result in beneficial use attainment
Utility of measure for judging if standards or uses are not attained	Direct comparison of data to standards and use of binomial model and 80 % confidence limit.
Water Body-specific Information	Data age 3 years and 8 months. Exceeded AB 411 standard for enterococcus 25 days out of 150 total days available.
Data used to assess water quality	Dry and wet season data
Spatial representation	Sampling location represents 25 feet up and down stream from location
Temporal Representation	Data was collected between 1999 and August 2002
Data Type	numerical
Use of standard method	
Potential Source(s) of Pollutant	unknown
Alternative Enforceable Program	None
RWQCB Recommendation	List as impaired due to enterococcus
SWRCB Staff Recommendation	

Water Body	Huntington Beach at Magnolia Street
Stressor/Media/Beneficial Use	Enterococcus/water/rec 1
Data quality assessment. Extent to which data quality requirements met.	QA used by Orange County Health Care Agency
Linkage between measurement endpoint and beneficial use or standard	Exceedances of single sample AB 411 standards may result in beach postings by Orange County Health Care Agency and therefore result in beneficial use attainment
Utility of measure for judging if standards or uses are not attained	Direct comparison of data to standards and use of binomial model and 80 % confidence limit
Water Body-specific Information	Data age 3 years and 8 months
Data used to assess water quality	Dry and wet season data exceeded 109 days out of 712 total numbers of days.
Spatial representation	Sampling location represents 25 feet up and down stream from location
Temporal Representation	Data was collected between 1999 and August 2002
Data Type	numerical
Use of standard method	
Potential Source(s) of Pollutant	unknown
Alternative Enforceable Program	None
RWQCB Recommendation	List as impaired due to enterococcus
SWRCB Staff Recommendation	